

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA :
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SALVADOR SANTANA CABRERA :

1:09CR122-1

FACTUAL BASIS IN SUPPORT OF GUILTY PLEA

NOW COMES the United States of America, by and through Anna Mills Wagoner, United States Attorney for the Middle District of North Carolina, pursuant to Federal Rule of Criminal Procedure 11(b)(3), and states the following:

On February 12, 2009, Deputy W. J. Andrews with the Guilford County Sheriff's Office initiated a traffic stop on a blue BMW, bearing NC registration XNA3481, near the Randleman Road/South Elm Eugene Street exit on Interstate 40 (business). Deputy Andrews stopped the vehicle after he saw the vehicle cross onto the fog line as it merged from the left lane to the right lane of travel. The officer approached the vehicle and asked the driver, SALVADOR SANTANA CABRERA for his license and registration. CABRERA advised the officer he had a concealed weapon permit and that he had a handgun on his left hip. Deputy Andrews directed CABRERA to leave the weapon where it was. CABRERA handed his license and vehicle registration to the officer.

Deputy Andrews asked CABRERA to exit the vehicle, and then took possession of the firearm from CABRERA's waistband. Andrews

asked CABRERA to have seat in the patrol vehicle. Andrews noticed that CABRERA was extremely nervous as he waited for the officer to check the license and registration. Detective Kevin Cornell of the Guilford County Sheriff's Office arrived on the scene immediately after CABRERA'S vehicle was stopped. Cornell had been part of a surveillance team that had watched CABRERA meet with a two other men - one Mexican/Latino male, one white male - in the parking lot of Panera Bread, located on Wendover Avenue, prior to the vehicle stop. Surveillance officers watched as CABRERA and a white male looked at something inside the trunk of CABRERA'S vehicle. While Andrews checked the license and registration, Cornell approached the passenger's side of the patrol vehicle and began a conversation with CABRERA. Cornell advised CABRERA that surveillance officers had watched the meeting in the Panera Bread parking lot. Cornell asked whom it was CABRERA had met. CABRERA stated Miguel, the one who arrived in the truck, worked for him and the two were to go to Atlanta to do work for Bill (LNU). CABRERA stated the other man was a client named Steve who was looking at floor samples in the trunk of CABRERA'S vehicle. Cornell asked CABRERA what was in the trunk of the BMW. CABRERA responded "flooring samples." Cornell asked if there were guns or money in the trunk, to which CABRERA responded: "No." Cornell asked for consent to search the vehicle. CABRERA denied consent for the officers to search, but

he stated that Deputy Andrews could run his drug canine around the exterior of the vehicle.

Deputy Andrews gave CABRERA a warning ticket for the movement violation and returned his license and registration. Andrews removed his canine, Tigo, from his patrol car and began an exterior sweep of the vehicle. As the dog passed the driver's side of the vehicle, it entered the car through the door, which CABRERA had left open. While Andrews did not direct the dog to enter the car, he also did not stop him from doing so. While in the back seat of the vehicle, Tigo's behavior indicated to Andrews that he was attempting to determine a location for the odor of narcotics. Andrews removed Tigo from the vehicle and continued the exterior search. Tigo sniffed the seam along the trunk area of the vehicle, looked at his handler and came to a sitting position, which indicated to Andrews that he had alerted to the presence of the odor of narcotics.

Andrews opened the trunk of the vehicle and found four bricks of suspected cocaine hydrochloride inside a gray case plastic screwdriver box.

CABRERA was placed under arrest, and he and his vehicle were transported to the Guilford County jail. CABRERA was advised of his *Miranda* rights and waived his right to remain silent and to have counsel present during questioning. CABRERA provided a statement to Detective Cornell, wherein he admitted transporting

a kilogram of cocaine to New York in December 2008. He stated he gave 3/4 of the kilogram to a person he knows as Pun. Pun tried to cook the cocaine into crack, but it never dried properly. CABRERA returned to Greensboro with the remaining 1/4 kilogram and sold it to Steve for \$7,000.00. CABRERA stated that, since December 2008, he had contacted his source in order to try and obtain ten kilograms of cocaine for Steve. Steve advised CABRERA that he could only come up with enough money to pay for four kilograms, and those were the packages that were seized from the car. CABRERA said he picked up the four kilograms of cocaine from a house located in the Castle Oaks subdivision off Gordon Road. A person known to CABRERA as Herman had hidden the gray plastic case containing the cocaine in the bushes near the house. CABRERA said he called Miguel to follow him to the meeting with Steve. Miguel was to take the money for the four kilograms of cocaine back to Tato Santillan who works at the Azeteca restaurant in High Point off Wendover Avenue. Santillan would then transfer the money to Herman at a later time. He stated that Steve was to give him \$30,000, which CABRERA was to give to Miguel. CABRERA stated that he and Steve were then going to travel to Newark, New Jersey where Steve would get an anticipated \$91,000 for the drugs. CABRERA then described the stop of his vehicle and his subsequent arrest.

A field test was conducted on a sample portion of the substance contained in one of the seized packages. The test yielded a positive result for cocaine.

This the 1st day of May, 2009.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2009, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

James M. Green, Jr.

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